

CAUSE NO. 18-0452-393TOMMIE BLACKBURN
plaintiff,

VS.

C.R. ENGLAND, INC. D/B/A C.R.
ENGLAND TRUCKING, INC.
defendant.§
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IN DISTRICT COURT

____ JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR
DISCLOSURE AND JURY DEMAND**

PLAINTIFF, TOMMIE BLACKBURN files this Original Petition, Request for Disclosure and Jury Demand and states the following:

**I.
DISCOVERY CONTROL PLAN**

Plaintiff brings this action under Tex. R. Civ. P. 47(c)(4) (monetary relief between \$200,000.00 and \$1,000,000.00). Plaintiff request that this matter be governed by a "Level 2" discovery plan.

**II.
PARTIES**

Plaintiff TOMMIE BLACKBURN is an individual residing in Denton County, Texas. The last three digits of Plaintiff's Social Security number are 322.

Defendant C.R. ENGLAND, INC. D/B/A C.R. ENGLAND TRUCKING, INC. is a foreign, for-profit corporation doing business, engaging in business, and/or transacting business in the State of Texas. It is sued in its common name or assumed name pursuant to Tex.R.Civ.P.28 which provides that any partnership, unincorporated association, private corporation, or individual doing business under an assumed name may be sued in its partnership, assumed, or common name.



It may be served with citation and process in this cause by serving its registered agent, CT Corporation System, which can be found at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

III.

VENUE AND JURISDICTION

Venue is proper in this Court because Denton County, Texas is the location where all or a substantial part of the events or omissions giving rise to the claim occurred. Furthermore, this Court has jurisdiction in that the damages claimed are within the jurisdictional limits of this Court.

IV.

FACTS

Plaintiff would show that on or about February 25, 2016, Plaintiff was driving southbound on IH-35W in Denton County, Texas in the left hand lane. A tractor trailer owned by Defendant C.R. England and operated by an employee of C.R. England suddenly veered into Plaintiff's lane, forced Plaintiff from the road and caused Plaintiff's vehicle to crash into the center median. The employee of Defendant C.R. England left the scene of this crash and was identified by witnesses who followed the tractor trailer he was operating.

As a result of this collision, caused by the negligence of Defendant and its employee, Plaintiff Tommie Blackburn sustained multiple serious injuries that continue to affect his daily life.

V.

CAUSES OF ACTION

A. NEGLIGENCE

Defendant's employee was negligent as follows:

- (a) In failing to keep a proper lookout;
- (b) In failing to properly drive within his lane;



- (c) In failing to take proper evasive action to avoid the collision;
- (e) In failing to change lanes safely; and
- (f) In failing to maintain control of his vehicle.

Each of these acts and omissions, singularly or in combination with others, constituted negligence which proximately caused the occurrence made the basis of Plaintiff's action and Plaintiff's injuries and damages.

VI.

RESPONDEAT SUPERIOR

For additional cause of action, Plaintiff Tommie Blackburn alleges that each and every named Defendant is liable for the wrongful actions or omissions of its employees, agents, or servants according to the doctrine of *respondeat superior*.

Plaintiff would show that all relevant times Defendant employee driver was in the course and scope of his employment with Defendant C.R. England, Inc. D/B/A C.R. England Trucking, Inc. and was acting in furtherance of the business of said Defendant.

VII.

NEGLIGENT ENTRUSTMENT

Defendant, C.R. England, Inc. D/B/A C.R. England Trucking, Inc., was guilty of negligent entrustment in that it entrusted the vehicle to its employee. Further C.R. England, Inc. D/B/A C.R. England Trucking, Inc., knew or should have known that its employee, was incapable of safely operating the vehicle in question in that he was an incompetent and/or reckless driver and that its employee's operation of the vehicle would endanger the health and safety of persons such as Plaintiff, Tommie Blackburn.



VIII.

NEGLIGENT HIRING AND RETENTION

Plaintiff would show that Defendant, C.R. England, Inc. D/B/A C.R. England Trucking, Inc. was negligent in hiring the driver as an employee and was negligent in retaining him as an employee. Such negligence was a proximate cause of the collision and the significant of injuries and damages to Plaintiff Tommie Blackburn.

IX.

NEGLIGENT SUPERVISION AND TRAINING

Plaintiff would show that Defendant C.R. England, Inc. D/B/A C.R. England Trucking, Inc. was negligent in failing to properly train and supervise its driver an employee. Such negligence was a proximate cause of the collision as well as Plaintiff's injuries and damages.

X.

GROSS NEGLIGENCE

Plaintiff alleges that all the acts, conduct, and omissions on the part of Defendant and/or Defendant's employee, taken singularly or in combination, constitute gross negligence and were the proximate cause of the damages and injuries to Plaintiff as alleged herein. Such gross negligence entitles Plaintiff to exemplary damages.

More specifically, Plaintiff, alleges that Defendant and Defendant's employee acted with conscious disregard with respect to the above-outlined acts, conduct and omissions of negligence.

XI.

DAMAGES OF PLAINTIFF TOMMIE BLACKBURN

Plaintiff Tommie Blackburn seeks damages for the following:

- a. Medical Expenses: Past and Future
- b. Physical Pain and Suffering: Past and Future



- c. Mental Anguish: Past and Future
- d. Physical Impairment/Disability: Past and Future
- e. Property Damage – Defendants are entitled to an offset for any money already paid on behalf of Defendants for property damage.
- f. Exemplary Damages

XII.
NOTICE OF INTENT

Pursuant to Tex. R. Civ. P. 193.7, Plaintiff intends to use documents produced by Defendants in writing at any pretrial conference and/or trial of the above-referenced matter. Plaintiff also intends to use such documents as proof of support or oppose any summary judgment pursuant to Tex. R. Civ. P. 166a(d).

XIII.
REQUEST FOR DISCLOSURE

Under Tex. R. Civ. P. 194, Plaintiff requests that Defendants disclose the information and materials described in Tex. R. Civ. P. 194 (a) - (k).

XIV.
REQUEST FOR JURY TRIAL

Plaintiff in the above-entitled and numbered cause has requested a jury trial. Plaintiff has tendered appropriate fees.

XV.
RELIEF SOUGHT

Plaintiff requests that this case be tried after which Plaintiff recovers:

1. Judgment against Defendants for a sum within the jurisdictional limits of the Court for the damages indicated above;
2. Pre-judgment and post-judgment interest at the maximum amount allowed by law;



3. Costs of suit;
4. Such other and further relief to which Plaintiff may be justly entitled.

Respectfully Submitted

MOLLY SCOTT LAW, PLLC

BY: /s/ Kyle D. Williams

MOLLY F. SCOTT

State Bar No. 24079289

molly@mollyscottlaw.com

KYLE D. WILLIAMS

State Bar No. 24072815

kyle@mollyscottlaw.com

12222 Merit Drive, Suite 1200

Dallas, Texas 75251

(214) 295-2900, phone

(972) 774-1277, fax

ATTORNEYS FOR PLAINTIFF



CERTIFIED A TRUE AND CORRECT COPY
OF THE RECORD ON FILE IN MY OFFICE

SHERRI ADELSTEIN

DENTON COUNTY CLERK

By: 

Deputy Clerk

Date: 2/15/18